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Information presented by the Provedor for Human Rights and Justice of Timor-Leste*

Note by the Secretariat

The Secretariat of the Human Rights Council hereby transmits the communication submitted by the Provedor for Human Rights and Justice of Timor-Leste,** reproduced below in accordance with rule 7(b) of the rules of procedures described in the annex to Council resolution 5/1, according to which participation of national human rights institutions is to be based on arrangements and practices agreed upon by the Commission on Human Rights, including resolution 2005/74 of 20 April 2005.

* National human rights institution with "A"-status accreditation from the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

** Reproduced in the annex as received, in the language of submission only.

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Annex

[English only]

Submission by the Provedor for Human Rights and Justice of Timor-Leste

Cooperation between the PDHJ (Timor-Leste National Human Rights Institution) and KOMNAS HAM (Indonesia National Commission for Human Rights) on the issue of missing persons

It is accepted that during the Indonesian occupation of Timor-Leste, between the years 1974 and 1999, many Timorese citizens have been killed or disappeared. A large part of these disappearances has until today not been accounted for. The Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR) has investigated the issue of disappeared people and came to the following conclusion:

"The Commission estimates that about 18,600 unlawful killings and disappearances occurred during the period of its mandate. The vast majority of them were perpetrated by the Indonesian security forces. The proportion of the total number of killings and disappearances which were attributed to the Indonesian security forces increased steadily over the years of the occupation, although from the mid-1980s their absolute number declined in most years until 1999".[1]

Among those who disappeared were a large number of children who were separated from their parents; 4500 in 1999 alone.[2]

The definition of what constitutes an 'enforced disappearance' in this sense has been taken from Chega!, the final report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR). It is the same definition used by the United Nations Working Group on a Draft Legally Binding Normative Instrument for the Protection of all Persons from Enforced Disappearances:

"[T]he arrest, detention, abduction or any other form of deprivation of liberty committed by agents of the State or by persons or groups of persons acting with the authorisation, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law".[3]

In 2005 Timor-Leste and Indonesia have established a Commission of Truth and Friendship (Komisaun Verdade no Amizade) with the intention of fostering cooperation between the two countries and with the objective of investigating and resolving outstanding human rights issues. A particular recommendation of this commission was that Timor-Leste and Indonesia intensify their efforts to collect information about missing persons, in particular children.

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[1] Chega, Volume II, 7.2: Unlawful killings and enforced disappearences. P 770.
[2] Chega, 2611.
[3] Chega, Volume II, 7.2: Unlawful killings and enforced disappearences, p 770.

Memorandum of Understanding between PDHJ and KOMNAS HAM Indonesia

Based on recommendations of this Commission and as a sign of the spirit of cooperation between the Komisi Nasional Hak Asasi Manusia Republik Indonesia (National Commission for Human Rights of the Republic of Indonesia; KOMNAS HAM Indonesia) and the Provedoria dos Direitos Humanos e Justiça (Provedor for Human Rights and Justice; PDHJ), both parties have undertaken to sign a Memorandum of Understanding (MoU) with the purpose of mutually reinforcing the work of the institutions in the areas of human rights and justice. The first MoU was signed in 2011 and a subsequent MoU was signed in 2013. On 6 July 2015, a renewal of the MoU was signed by Sr. Nur Kholis on behalf of KOMNAS HAM Indonesia and Sr. Silverio Pinto Baptista on behalf of the PDHJ in Denpasar, Bali, Indonesia. The signing of the renewal of the MoU was a continuation of longstanding, intensive and fruitful cooperation between PDHJ and KOMNAS HAM Indonesia.

Specifically, the new MoU aims at strengthening the cooperation between both institutions in the fulfillment of their duties, cooperation in the implementation of mandates in the areas of research and study, and education and counseling, and coordination in the implementation of the function of monitoring and mediation.

As one of the objectives of both the KOMNAS HAM Indonesia and the PDHJ, as expressed in the MoU, is to encourage the governments of Indonesia and Timor-Leste to implement the recommendations of the Commission of Truth and Friendship, the MoU is highly relevant to the issue of disappeared persons. As the PDHJ recognizes the importance of the 1992 Declaration on the Protection of All Persons from Enforced Disappearances, the PDHJ is dedicated to contribute to the resolution of this issue that is so relevant in the context of Timor-Leste.

2013 Report on the Issue of Missing Children (Separated from their Parents)

In 2013 the PDHJ and KOMNAS HAM Indonesia demonstrated their ability to cooperate through the publication of a report on missing children. As stated before, it has been established that a large number of children have gone missing during the years 1975 – 1999. In accordance with the Mandate of the PDHJ, the PDHJ has conducted an investigation to identify the whereabouts of the missing children (who by now are adults) and facilitate the reunification with their family members. The investigation was coordinated together with individuals, local organizations and government institutions in both Timor-Leste and Indonesia.

As a result of the efforts of the PDHJ and the KOMNAS HAM Indonesia, a total of 167 people were identified as persons who have gone missing from Timor-Leste during the years 1975 – 1999. The PDHJ has made significant efforts to reunite these persons with their families. For example in 2015, the PDHJ has contributed to the identification of the families of more than 15 persons who were reported missing and has facilitated the reunification with their families. These efforts were contributed to not only by the PDHJ but also by KOMNAS HAM Indonesia and NGO's from both Timor-Leste and Indonesia.

Recommendations

As a result of the cooperation between the PDHJ and the KOMNAS HAM Indonesia, missing persons who have been the victims of enforced disappearances have been reunited with their families. As each and every of these reunifications has a profound impact on the lives of those involved in every sense, and as it is their right as human beings to be informed about the whereabouts of their relatives and to reduce or remedy the suffering that results from uncertainty, the PDHJ makes a strong appeal to the Democratic Republic of Timor-Leste and the Republic of Indonesia to continue and where possible and necessary to

increase and intensify the efforts to identify and reunite persons who have been separated from their families during the years 1975 – 1999.

The PDHJ would like to highlight the role of Mr. Rui Maria de Araujo, the new prime minister under the 6th Constitutional Government since 2015, who has been active in stressing the importance of the reunification of missing persons with their families. He has appointed the Provedor of the PDHJ as the focal point for the activities. This role has been proudly accepted by the Provedor and all employees of the PDHJ.

Nevertheless, the PDHJ sees areas in which improvement of the resolution of the issue of missing persons is possible and essential. In particular, the PDHJ invites the Working Group on Enforced Disappearances to recommend the Democratic Republic of Timor-Leste to:

- Establish a Commission on Missing Persons as recommended by CAVR and CTF
- Intensify cooperation at all levels to support the identification of persons who have gone missing during conflict years in Timor-Leste
- Make a strong effort to reunite persons, who have been identified as missing, with their families
- Open accessible channels of communication for persons who have lost contact with their family or families who have lost contact with a relative as a result of the conflict
- Support the work of the PDHJ and KOMNAS HAM Indonesia in these areas through financial and political support
- Cooperate with the Republic of Indonesia to enhance communication with the ICRC and other civil society organisations on the issue of disappearances.